

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**MARITZA P. SOTO ALVAREZ**

Plaintiff,

vs.

**UNITED STATES DEPARTMENT OF  
VETERAN AFFAIRS; VETERAN  
BENEFITS ADMINISTRATION**

Defendant.

CIVIL NO.

RE: INJUNCTIVE RELIEF; FOIA  
REQUEST FOR PRODUCTION OF  
VETERAN BENEFITS FILE

**COMPLAINT FOR INJUNCTIVE RELIEF**

**TO THE HONORABLE COURT:**

**COMES NOW** Plaintiff Maritza P. Soto Alvarez, (“Soto”), through her undersigned counsel and very respectfully **ALLEGES, SOLICITS** and **PRAYS**:

**I. NATURE OF THE ACTION AND JURISDICTION**

1. Plaintiff Soto hereby invokes this Honorable Court’s federal question subject matter jurisdiction under 28 U.S.C. § 1331 for this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for injunctive and other appropriate relief and seeks the disclosure and release of agency records improperly withheld from plaintiff by defendant United States Department of Veteran Affairs (“VA”) and the Veteran Benefits Administration (“VBA”).

2. This Honorable Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Venue lies in this judicial district under 5 U.S.C. § 552(a)(4)(B).

4. Plaintiff Soto is of legal age, married to a disabled United States Veteran Juan Luis Hernández Cartagena and she is a citizen of the United States of America. Soto currently works for the United States Immigration and Naturalization Service and she is a resident of San Juan, Puerto Rico.

5. Defendant VA is a Department of the Executive Branch of the United States Government. The Veterans Benefits Administration (“VBA”) is part of the Department of Veteran Affairs. Both VA and VBA are agencies within the meaning of such term as provided by 5 U.S.C. § 552(f).

## **II. THE FACTS**

6. Through a letter dated March 6, 2012, from undersigned legal counsel, addressed to Marlan P. Waldrop, Director of the U.S. Department of Veterans Affairs of the Regional Office for the Commonwealth of Puerto Rico, Soto informed VA that she had experienced several difficulties in receiving several benefits due to her as the wife of disabled Veteran, Juan Luis Hernández Cartagena.

7. Juan Luis Hernández Cartagena was honorably discharged by the United States Army and was rated by the United States Veteran Affairs as being 100 percent disabled due to service-connected causes.

8. Prior to March 2012, Soto had sought help from VA’s Regional Office in Puerto Rico as well as VA’s Office located in Philadelphia, Pennsylvania in relation to veteran benefits that are due to her as she is the spouse of a disabled veteran Hernández Cartagena.

9. Notwithstanding Soto’s requests for help and assistance in relation to her claims with VA, they were not answered either promptly and/or correctly. Soto has

sought information from both VA Offices here in Puerto Rico and Philadelphia, Penn., as to the extent and amount of benefits afforded to her husband as a disabled veteran, and any other spouse related benefits due to her.

10. However, immediately after Soto requested this information from VA and VBA she was some how unilaterally declared deceased by VA and thereafter, certain benefits due to her as the spouse of a disabled veteran were not afforded to her and were suspended.

11. When Soto requested information as to why she was placed on deceased status and who submitted her death certificate to attest her passing, no information has ever been forthcoming from VA and VBA.

12. Based on her statutory rights under FOIA and specifically invoking such federal statute, through the previously stated March 6, 2012 letter, Soto requested a complete copy of her husband's file with the U.S. Department of Veterans Affairs, including but not limited to, all information involving all accrued benefits to which her husband and her are entitled to, as he was honorably discharged from the U.S. Army as a veteran that had become disabled due to his commendable service to the United States.

13. The March 6, 2012 letter was also copied to the VA's Records Management Service at the United States Department of Veteran Affairs located at 810 Vermont Avenue, N.W., Washington D.C.

14. Both the San Juan Regional and the Washington, DC offices of VA received the stated March 6, 2012 letter. However, the requested information was not provided or produced.

15. On April 6, 2012, the Washington FOIA Service Office of VA received Soto's March 6, 2012 FOIA request and forwarded her request to the Veteran Benefits Administration ("VBA") to the attention of Sean Burns, FOIA officer whose office is located at 810 Vermont Ave, in Washington, D.C.

16. On April 9, 2012, Ms. Bruno Gaston, a VA FOIA Service Officer, telephoned undersigned counsel's law office and requested that Soto fill out and to send back a Request for and Consent to Release Information that Gaston had emailed to undersigned counsel.

17. On April 11, 2012, Soto duly filled in and signed the Request and Consent to Release Information Form that had been sent by Gaston and therein specifically requested the complete veteran benefits file of her husband, Juan Luis Hernández Cartagena.

18. On April 13, 2012, the stated Request and Consent to Release Information Form requesting the stated information was sent by fax to Gaston.

19. On April 19, 2012, VA acknowledged receipt of Soto's March 6, 2012 FOIA request. However, the information being requested under FOIA has not been produced or provided.

20. Soto's March 6, 2012 FOIA request was assigned by the VA, Case File Number 12-04669-F.

21. On May 1, 2012, Soto once again through undersigned counsel, reiterated her FOIA requests to VBA though a letter of even date. For a second time, Soto asked for the "complete copy of her husband's file with the U.S. Department of Veterans Affairs, including but not limited to, information involving all accrued benefits to which

her husband and her are entitled to as an honorably discharged U.S. Army veteran who became disabled due to his commendable service to the United States.”

22. On May 10, 2012, Ms. Lisa Matuszcak, a Privacy Officer of the U.S. Department of Veterans Affairs, Veterans Benefits Administration responded to Soto's May 1, 2012 FOIA request.

23. Matuszcak's responded to Soto's reiterated FOIA request and stated that Soto was requesting the “claims file of deceased veteran Juan L. Hernández Cartagena” and that Soto's request is based under the Privacy Act.

24. Thereafter, Matuszcak then referred Soto's FOIA requests to the VBA San Juan, Puerto Rico Regional Office.

25. Through a letter dated May 17, 2012, Soto replied to Matuszcak and specifically reiterated her previous FOIA requests and demanded the production of Hernandez Cartagena's death certificate or any other document that accredits his demise, because Soto as his wife has no evidence that her husband has actually passed away. Such letter was sent by certified U.S. mail return receipt requested and was further copied to VBA's Regional Office here in Puerto Rico.

26. Soto's May 17, 2012 letter was further faxed to VBA's offices in Puerto Rico.

27. Plaintiff Soto has exhausted the applicable administrative remedies with respect to her FOIA requests to VA and VBA.

28. VA and VBA have both wrongfully withheld the requested records from Plaintiff Soto.

**WHEREFORE**, premises considered, Soto prays that this Honorable Court enter Judgment against Defendants VA and VBA and grants Soto the following injunctive relief:

A. Order VA and VBA to disclose the requested records in their entireties and make copies available to Plaintiff Soto.

B. Provide for expeditious proceedings in this action;

C. Award Plaintiff Soto all costs and reasonable attorneys fees incurred in this action; and

D. Grant such other relief as the Honorable Court may deem just and proper.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 22<sup>nd</sup> day of June, 2012.

**/s/ JOSÉ G. FAGOT DÍAZ**  
**USDC PR No. 204112**  
**Attorney for Plaintiff**  
1890 Pasionaria Street  
Río Piedras, PR 00927  
Tel:(787) 763-1351  
Fax: (787) 763-9014  
email: jgf@fagot-law.com